BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20054

In the Matter of	)	
Using Reverse Auctions	)	WC Docket No. 05-337
To Allocate USF Funds	)	

To: Federal-State Joint Board on Universal Service

COMMENTS OF CORR WIRELESS COMMUNICATIONS, LLC

The Joint Board recently requested comment on the possible use of "reverse auctions" as a method for awarding high cost universal service funding to Eligible Telecommunications Carriers (ETCs). Corr Wireless Communications, LLC ("Corr Wireless" or "Corr") is in favor of the use of reverse auctions, but only on a basis that deals even-handedly with all classes of carriers. The highly anti-competitive and counterproductive features outlined in the Joint Board's "Discussion Proposal" should be rejected..

I. Background.

Corr Wireless is a regional CMRS provider in northern Alabama and adjacent counties. It competes not only against the large national cellular carriers for wireless customers, but also, increasingly, against the incumbent local exchange companies who provide basic service in its BTAs. The Commission has recognized in its recent annual reports on the state of Competition in the Wireless Industry that wireless service is becoming a substitute for wireline service in more and more households. According to the *Tenth Report*[1], as late as 2004, 5.5% of adults lived in households with only wireless phones, a figure which was significantly higher (14%) among younger adults. The Commission noted the upward trend in complete substitution of wireless for wireline service, with the absolute number of wireline access lines falling by 1.2%. We expect these figures to jump markedly for the 2005 period covered by the Commission's next annual report on competition. Corr Wireless's experience in its small marketplace therefore is an accurate microcosm of what is happening with consumers nationwide: cell phones are now perceived as perfectly adequate substitutes for wireline phones, and, in fact, the increased reliability and lower cost of cell phones have made that perception a reality.

The upshot of this development in the marketplace is that there is no longer any need to artificially prop up LECs where the basic services provided by those carriers can be provided just as well, if not better, by competing carriers – often at lower cost. It must be stressed that the function of the USF is not to support any one segment of the industry or even to level the playing field between competing segments of the industry, but rather to ensure that basic and certain advanced telecommunications services are available to everyone in the country at rates comparable to those paid in urban areas. 47 U.S.C. 254(b). The difficulty faced by policymakers is how to achieve that goal without favoring one segment of a competitive industry at the expense of another.

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[1] Tenth Report and Order ______________________

The means of accomplishing that goal to date has been to provide USF funding primarily to LECs while grudgingly designating CLECs and wireless carriers as ETCs. We say “grudgingly” because the Commission has been extremely dilatory in processing wireless carriers’ requests for designation as ETCs, taking several years to develop appropriate designation standards and then taking many months to process requests filed in compliance with those standards. The Commission has also been slow to act on study area redefinition requests by state commissions necessary to implement state-based ETC designations. The result has been that LECs have, as a practical matter, been receiving subsidies for universal service while most of their competitors have not. This is true despite the fact that over half the contributions into the fund now come from the competitors. As of 2004, wireless carriers were contributing $2.6 billion INTO the fund while receiving only $330 million (less than 10% of the total) FROM the fund. LECs pocket the other 90%.[2] It cannot be disputed that this situation has created an unfair competitive imbalance between the two classes of carriers in contravention of the Commission’s normal pro-competitive policies. The irony is that wireless ETCs like Corr are using USF funds for new greenfield systems in rural areas, while the LECS are simply maintaining the old wireline system.

Although it has not been conclusively demonstrated that a problem exists at present, the concept of a reverse auction to distribute USF funds could rectify fundamental problems that could develop in the future should the current system remain in effect . A properly designed reverse auction system would

[2] Data based on 2004 Universal Service Administrative Company figures.

preserve the principle of competition by letting carriers freely compete (by bidding) on the delivery of USF-supported services to rural areas. No class or category of carrier would be favored as long as the consumers got the designated services. At the same time, the quantum of support provided to the USF-providing carrier would not be set at the embedded cost level established by the ILEC but would rather be based on the lowest cost at which those services could be provided (whether by a LEC or wireless carrier). A USF distribution scheme which accomplished these ends would meet the fundamental goals of the USF program fairly and at a significantly reduced cost.

II. The "Discussion Proposal" Negates any Theoretical Benefits of a Reverse Auction by Preserving the Worst Elements of the Current System.

The genesis of the "Discussion Proposal" is unclear, but the net effect of the proposal would be to simply entrench the inefficiencies and inequities of the current system rather than accomplishing any fundamental reform. The USF is intended to support the basic menu of services laid out in Section 54.101 of the Commission's rules. These do not include broadband internet access, a premium service that is available from satellite and cable TV operators, licensed and unlicensed wireless operators in the 2.3 – 2.5 GHz bands, and, increasingly, local exchange companies. Moreover, Congress established the Rural Broadband Access Loan and Guaranty Program[3] in 2002 expressly for the purpose of providing funding assistance for the provision of broadband in rural areas. The use of USF funds for this purpose would be wholly inappropriate, yet that is what the Discussion Proposal contemplates.

[3] Farm Security and Rural Investment Act of 2002, Public Law 101-171 (2002)

The Proposal would also automatically allot USF funds to the ILEC as the designated broadband service provider for a "transitional" period of ten years. This plan would permit LECs to build out the infrastructure to provide broadband at ratepayers' – other carriers' ratepayers' – expense, without undergoing the reverse auction process at all. The benefit of having multiple carriers compete to provide supported services at low cost is entirely lost. To make matters worse, the Proposal envisions the LEC receiving the same inflated level of support it now receives *plus* inflation-based increases. This Proposal goes beyond being ill-conceived as a solution; it would actually exacerbate the any problems which may develop.

III. Reverse Auctions Can Practically Solve the Problem of Efficient USF Allocation, if Administered Fairly.

Quite apart from the fundamental flaws in the particular reverse auction scheme embodied by the Discussion Proposal, reverse auctions in general could fix the USF problem for a number of practical reasons. First, as we noted above, all carriers should have an opportunity to provide USF service in their service areas and receive appropriate support for that effort. This opportunity should include both wireless and wireline carriers who, as we noted above, are now directly fungible in their ability to provide the basic phone services needed by rural and high cost customers. But how can you fairly and accurately compare the cost structure of a wireline carrier with a wireless one? LECs operate under a uniform system of accounts which regularizes their telecom accounting protocols, while wireless carriers do not. Wireline carriers typically have already built out much of the infrastructure necessary to provide universal service in their limited service areas, while wireless carriers, having much shorter histories and much larger territories to serve, usually have not. The LEC operation previously affiliated with Corr, for example, had many poles still in service in 1999 that were over 40 years old. Wireless carriers usually have far fewer customers to spread their capital costs over, even though in absolute terms they can typically deliver voice service at a lower incremental cost than wireline carriers can. This point cannot be overstated: if the cost of providing universal service is divided among the number of subscribers, the LEC will usually appear to be the lower cost provider because it typically will have the largest number of subscribers even though, in absolute terms, the cost of a wireless carrier delivering these services would probably be less. Unlike LECs, wireless carriers are still building "greenfield" systems in rural areas, and if payments to wireless carriers were based on actual costs per subscriber for the wireless carrier, the costs would be astronomical.

The only way to really get to a common denominator is via a reverse auction applicable to <u>all</u> providers which would set the USF funding level for all participating carriers in a particular market based on the lowest cost of providing the service per *potential* subscriber – not on a per *current* subscriber -- basis. Any other approach effectively rewards LECs for their historical monopoly position and entrenches them in that position by guaranteeing them USF subsidies. As we see it, a viable reverse auction plan must:

A. Set a means of establishing a funding level for provision of USF services which is the lowest level necessary to deliver those services and only those services;

B. Be competitively neutral between and among wireline and wireless providers;

C. Transition fairly but with all deliberate speed from the present flawed system;

D. Permit prompt designation of ETCs so that USF funds can start to flow, and the benefits to the public be realized, as soon as possible.

Corr's solution would be to have a silent auction in which each carrier who desires to provide universal service in a particular wire center would file a single submission indicating that it could provide the universal services identified in Section 54.101 of the rules to that area for $x per year. The lowest bidder would be required, on pain of significant fines plus loss of any future USF funds, to actually provide the services which it promised to provide. No other process would be required to become an ETC since submitting the low bid would automatically obligate one to provide USF services on the terms heretofore established by the Commission. The low bidder would also be subject to the reporting and construction guidelines for FCC-designated ETCs outlined in the *Report and Order* in CC Docket No. 96-45, rel. March 17, 2005, 20 FCC Rcd 6371 (2005). For a transitional period of five years, any non-low bidder who is currently an ETC or CETC would be entitled to receive the same level of funding as received in the previous 12 months. The process would be repeated every ten years.

This plan has the benefit of significantly reducing costs since carriers would have a strong incentive to offer to provide the services at a low cost. The days of inflated, non-competitive LEC-based funding levels would be over. The plan could be very easily administered since there would only be a single, best offer, proposal by each carrier. Both wireline and wireless carriers would have an equal opportunity to be the low bidder based on their willingness to provide service to the entire potential customer pool in the wire center.

Corr Wireless recognizes that there is a need to transition current USF recipients gradually away from the payments on which they have relied in their planning for the foreseeable future. Any transitional period should be equal to the Service Improvement Plan being filed this October with the Commission by FCC-designated ETCs: 5 years. A five year transition period would permit existing ETCs who have expended funds, built out facilities, and laid out construction timetables in the expectation of maintaining current funding levels to be properly reimbursed for these investments. Funding levels thereafter would be based on the level established by the reverse auction, with all ETCs which have built facilities serving the wire center being eligible to share in the USF support in proportion to the number of customers they serve.

It has been suggested that there should not be multiple USF ETCs in a given market. The fact is, however, that the current system already precludes multiple recipients. Because distributions are (or will eventually be) based on subscriber counts, only the carrier with the customer receives the USF payment applicable to that customer. Under the present system, non-ILEC ETCs are compensated at the same rate at which ILECs are compensated, per subscriber. This method has established a reasonable interim surrogate for actual costs. Under the new system, after the transition period all ETCs would share in the funding established by the auction as sufficient to meet the area's USF needs.

IV. CONCLUSION

Corr's reverse auction plan would provide for a reasonable transition to a market-based method for establishing USF funding levels in each wire center, a method which is easily administered, fair to all market participants, avoids duplicate payments, and ensures that USF-supported services will be provided by the designated ETC.   The Commission should adopt this approach.

Respectfully submitted,

CORR WIRELESS COMMUNICATIONS,
LLC

By____________/S/__________________
Donald J. Evans

Fletcher, Heald & Hildreth PLC
1300 North 17th Street, 11th Floor
Arlington, VA 22209

Its Attorneys

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